

2 FAM 950

PAYMENT AND REWARDS FOR INFORMATION RELATING TO INTERNATIONAL NARCOTICS TRAFFICKING

(CT:GEN-411; 07-11-2013)
(Office of Origin: L/LEI)

2 FAM 951 GENERAL

2 FAM 951.1 Summary

(CT:GEN-363; 07-27-2009)

- a. Section 36 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2708 et seq.), provides the authority for the Department of State to establish a narcotics rewards program.
- b. The Bureau of International Narcotics and Law Enforcement Affairs (INL) administers and provides policy guidance, as needed, for the program.

2 FAM 951.2 Authority

(CT:GEN-411; 07-11-2013)

- a. Section 36(b) of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2708(b)(3)), provides that the Secretary may pay a reward to any individual who furnishes information leading to:
 - (1) The arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—
 - (A) a violation of United States narcotics laws such that the individual would be a major violator of such laws;
 - (B) the killing or kidnapping of—
 - (i) any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual's official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

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- (ii) a member of the immediate family of any such individual on account of that individual's official duties, in connection with the enforcement of U.S. narcotics laws or the implementing of U.S. narcotics control objectives; or
 - (C) an attempt or conspiracy to commit any act described in subparagraph (A) or (B);
 - (D) the arrest or conviction in any country of any individual aiding or abetting in the commission of an act described in paragraph . . . (1), (2) or (3); [or]
 - (E) the prevention, frustration, or favorable resolution of an act described in paragraph. . . (1), (2) or (3), including by dismantling an organization in whole or in significant part"
- b. Pursuant to Section 36(e)(1), no reward paid may exceed \$25 million (subject to available funding) "except as personally authorized by the Secretary of State if he or she determines that offer or payment of an award for a large amount is necessary to combat terrorism or defend the Nation against terrorist acts.
- c. For purposes of Section 36(b)(3)(A) of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2708(b)(3)(A)—see 2 FAM 951.2, paragraph a), a major violator of U.S. narcotics laws includes anyone who has been designated as (1) a "specially designated narcotics trafficker" under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and Executive Order 12978, (2) a "significant foreign narcotics trafficker" under the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901 et seq.), or (3) a "consolidated priority organization target (CPOT)" by the Drug Enforcement Administration (DEA). Additionally, a major violator may also include other individuals whom DEA certifies, in writing, as major violators of U.S. narcotics laws.
- d. This program authorizes the payment of rewards only in consideration of the furnishing by an eligible individual of information that produces the results specified in the authorizing legislation, as described above. This program is in addition to and separate from the normal payment to cooperating individuals for the purchase of evidence or information and is not intended to interfere with or take the place of routine purchases of information that are made with DEA, Federal Bureau of Investigation (FBI), or the Department of Homeland Security Immigration and Customs Enforcement (DHS/ICE) funds.

2 FAM 951.3 The Interagency Narcotics Rewards Program Committee

(CT:GEN-411; 07-11-2013)

- a. The Narcotics Rewards Program Committee is an interagency committee that has been established to address issues associated with this rewards program

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and to consider proposals for rewards payments to potential recipients.

- b. The Narcotics Rewards Program Committee is chaired by a representative of INL and is comprised of representatives from:
 - (1) The Office of the Legal Adviser (L/LEI and L/LM);
 - (2) The Bureau *of the Comptroller and Global Financial Services (CGFS)*;
 - (3) Relevant regional bureau(s) within the Department;
 - (4) The Department of Justice, Criminal Division (DOJ);
 - (5) The Drug Enforcement Administration (DEA);
 - (6) The Federal Bureau of Investigation (FBI);
 - (7) The Department of Homeland Security Immigration and Customs Enforcement (DHS/ICE); and
 - (8) The Central Intelligence Agency (CIA) (Center for Narcotics and Crime (CNC) representatives, as appropriate).
- c. As appropriate, representatives of other Department bureaus or other U.S. Government agencies may also confer with the Narcotics Rewards Program Committee or be present as observers.

2 FAM 952 REWARDS GUIDELINES

2 FAM 952.1 Ineligibility of Government Officers or Employees

(CT:GEN-363; 07-27-2009)

An officer or employee of any entity of Federal, State, or local government or of a foreign government who, while in the performance of his or her official duties, furnishes information, as described in 2 FAM 951.2, is not eligible for a reward under this rewards program. Such an officer or employee may, however, be eligible for participation in the Department of Justice Witness Security Program.

2 FAM 952.2 Coordination with Relevant Host Government Authorities

(CT:GEN-306; 06-24-2003)

The rewards program is to be carried out in such a manner as to supplement and complement the bona fide security and law enforcement efforts of relevant host-government authorities, which bear the primary responsibility in these areas. To this end, all stages of the rewards process (see 2 FAM 953) will be closely coordinated, whenever appropriate, with responsible host-government authorities.

Such coordination will be accomplished primarily between the DEA country attaché and local narcotics and law enforcement authorities (see 2 FAM 952.3).

2 FAM 952.3 Responsibilities

(CT:GEN-306; 06-24-2003)

The DEA country attaché, in coordination with the INL Narcotics Affairs Section (NAS), shall be primarily responsible for the rewards program at each post. All other U.S. law enforcement agencies at posts abroad participating in the Narcotics Rewards Program shall coordinate with the DEA country attaché. (If there is no DEA attaché or NAS at post, then the DEA attaché or narcotics affairs officer or coordinator having responsibility for that country will coordinate these reward activities.) Such responsibility includes implementation of each of the stages of the rewards process as set forth in 2 FAM 953, including coordination, where appropriate, at each such stage with host-government authorities. In carrying out this responsibility, the DEA country attaché and NAS shall remain subject to the overall direction and supervision of the chief of mission concerned, who shall approve all proposals to pay rewards before transmittal, and shall coordinate with other officers at post, as appropriate.

2 FAM 952.4 Security Procedures

(CT:GEN-363; 07-27-2009)

All telegraphic and related communications relating to the implementation of this program must be transmitted in appropriate channels with a classification level and distribution controls sufficient to ensure the security of intelligence sources and methods, foreign government information, foreign relations, and confidential sources. In particular, post should handle information relating to the identity of an informant, such as names or other personal data and times, places, and circumstances of contacts with U.S. officials, in accordance with appropriate operational security procedures.

2 FAM 952.5 Accounting for Funds

(CT:GEN-411; 07-11-2013)

Fiscal responsibility and accountability for funds appropriated for use in carrying out this rewards program will reside with the Department of State, Bureau of *the Comptroller and Global Financial Services (CGFS)*. *CGFS* will also be responsible for instituting appropriate financial controls, including such controls as may be necessary to maintain the confidentiality of payments within the framework of internal Department of State control and audit requirements.

2 FAM 953 REWARDS PROCESS

2 FAM 953.1 Offers to Pay Rewards

(CT:GEN-411; 07-11-2013)

- a. The Department, posts, or other agencies may propose that a reward be offered for information leading to the arrest or conviction of a major narcotics trafficker, the prevention or frustration of narcotics trafficking or other favorable resolution, including the dismantling of a narcotics organization.
- b. Such proposals may include that a reward be offered jointly with a foreign government.
- c. A generic reward offer for information relating to all potential targets may also be considered.
- d. Any such proposals must be cleared by INL, L, and *CGFS* within the Department of State, and DEA, FBI, the Criminal Division of the Department of Justice, and other Federal agencies, as appropriate. Relevant posts shall also be consulted regarding proposed reward offers and may be directed to consult with respective host governments, as appropriate.
- e. When a reward offer is cleared as set forth in 2 FAM 953.1, it may then be publicized in accordance with 2 FAM 953.2.

2 FAM 953.2 Publicizing Reward Offers

(CT:GEN-411; 07-11-2013)

- a. Funds appropriated for the Narcotics Rewards Program may be used for publicity initiatives, such as Department or post-initiated worldwide or region-specific campaigns and other publicity measures.
- b. Both Department and post initiated media announcements should include:
 - (1) Identification of the entity offering the reward (ordinarily the U.S. Department of State, although in certain circumstances it may be necessary or desirable to avoid reference to the U.S. Government's role);
 - (2) The amount specifically approved for the reward offer, not to exceed the amount up to which the U.S. Department of State is authorized to pay (currently up to \$25 million);
 - (3) The basic criteria under which rewards are authorized to be made as set forth in 2 FAM 951.2;
 - (4) For publicity tailored to specific incidents or individuals, a concise description of the incident or individual in connection with which a reward may be given;
 - (5) Particulars as to where to take the information;
 - (6) A statement that any officer or employee of any U.S. or foreign governmental entity furnishing information in the performance of his or her

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official duties is ineligible for a monetary reward;

- (7) A statement indicating that the identity of the informant will be kept confidential; and
 - (8) The fact that the U.S. Government may also be able to provide for the possible relocation of persons and their families for furnishing such information.
- c. In no case may a Department or other agency official promise or agree to pay a reward under this program without express approval from the Department through INL in accordance with 2 FAM 953.5.
 - d. In some instances, such as in the case of a sealed indictment against a narcotics trafficker, publicity of the reward offer may not be feasible.
 - e. All reward announcements and other media campaigns shall be cleared by INL, L, the regional bureau, and *CGFS* within the Department and DEA, FBI, the Criminal Division of the Department of Justice, or other Federal agencies, as appropriate. Relevant posts shall also be consulted regarding proposed announcements and may be directed to consult with respective host governments.

2 FAM 953.3 Actions Upon Receiving Information in Response to the Rewards Offer

(CT:GEN-363; 07-27-2009)

- a. The DEA attaché (or FBI or DHS/ICE attaché, if appropriate) shall collect and analyze all information received in response to a reward offer. Any other officer or employee of the post receiving any such information shall immediately convey the information to the DEA attaché, subject only to considerations of protection of intelligence sources and methods or the proprietary nature of the information.
- b. The DEA attaché performs initial evaluation of the credibility and relevance of the information and determines whether or not to act upon it in furtherance of efforts to capture the targeted narcotics trafficker.

2 FAM 953.4 Proposals to Pay Rewards

(CT:GEN-363; 07-27-2009)

- a. Proposals that a reward be paid under this program may originate at post, at the Department, or at other agencies. The proposal must comply with security procedures outlined in 2 FAM 952.4. If a proposal originates at post, the DEA attaché should coordinate it and the chief of mission or deputy chief of mission in the country involved shall approve it before post forwards it to the Department for consideration. Included with any such proposal must be specific details concerning the factors set forth in

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2 FAM 953.5. In no case may a post promise or agree to pay a reward under this program without express approval from the Department through INL in accordance with 2 FAM 953.5.

- b. If a proposal originates within the Department or from another agency, the Narcotics Rewards Committee will normally seek the views of the relevant post(s) before recommending the payment of a reward.
- c. Posts proposing reward recipients should advise the Narcotics Rewards Committee through INL of any host-country sensitivities bearing upon the decision-making process. For example, host-country legal restrictions as may apply to payment, or promise of payment, to witnesses for their testimony, must be considered in making recommendations, as well as the effect that payment of a reward would have on law enforcement efforts of host-country authorities.
- d. Posts should also advise whether any specific measures for protection of the identity of the proposed recipient are deemed necessary (see 2 FAM 953.6).
- e. A post or agency may suggest a reward amount to the Department as part of its proposal in light of the considerations listed in 2 FAM 952.5.

2 FAM 953.5 Reviewing Rewards Proposals

(CT:GEN-363; 07-27-2009)

- a. The Narcotics Rewards Program Committee will review proposals to pay rewards to informants in light of 2 FAM 953.5.
- b. In “major violator” cases covered by Section 36(b)(3)(A), (C), or (b)(4) of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2708(b)(3)(A), (C), or (b)(4)—see 2 FAM 951.2, paragraph a), the Narcotics Rewards Program Committee shall review various considerations including the following:
 - (1) The degree to which the arrest or conviction of the perpetrator will impede the functions of a major narcotics trafficking organization;
 - (2) The credibility, specificity and value of the information with respect to the arrest or prosecution of the perpetrator;
 - (3) The degree of risk taken by the informant;
 - (4) The voluntariness of the informant’s cooperation; and
 - (5) The degree of involvement by the informant in the crime(s).
- c. In cases involving prevention or frustration or favorable resolution of a narcotics-related offense, including by dismantling a narcotics distribution or production organization, as provided by Section 36(b)(5) of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2708(b)(5)—see 2 FAM 951.2, paragraph a), the Narcotics Rewards Program Committee

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shall review various considerations, including the following:

- (1) The seriousness of the narcotics-related offense that was prevented, frustrated, or favorably resolved, or the importance of the narcotics organization and the extent to which it has been dismantled;
 - (2) The credibility, specificity, and value of the information provided in successfully preventing or frustrating the offense, or other favorable resolution, including dismantling the narcotics organization; and/or
 - (3) The degree of risk faced by the individual and the individual's family in providing the information.
- d. In cases involving information relating to crimes against U.S. Government enforcement personnel and their families described in Section 36(b)(3)(B), (C), or (b)(4) of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2708(b)(3)(B), (C), or (b)(4)—see 2 FAM 951.2, paragraph a), the Narcotics Rewards Program Committee shall review various considerations, including the following:
- (1) The value of the information with respect to the arrest and/or prosecution of the perpetrators(s) of such an act;
 - (2) The degree of participation in the act of those arrested and/or prosecuted (for example, whether they were accessories, passive participants, active participants, leaders, or the masterminds); and
 - (3) The degree of risk faced by the individual and the individual's family in providing the information.
- e. Whether or not a reward is to be paid in any given case, and the amount of the reward, are matters wholly within the discretion of the Secretary of State, with the concurrence of the Attorney General, as appropriate.
- f. If a proposal to pay a reward is denied by the committee, the Secretary of State, or the Attorney General, INL will advise the originating post, if any, of the decision by telegram, specifying the basis for the denial.

2 FAM 953.6 Protection of Recipient's Identity

(TL:GEN-306; 06-24-2003)

- a. If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Secretary shall take such measures in connection with the payment of the reward as he or she considers necessary to effect such protection. Specific measures employed to protect the identity of a recipient or potential recipient (and immediate family members, as appropriate) beyond the security procedures generally applicable to the Rewards Program, as set forth in 2 FAM 952.4, will depend on the circumstances of each case, but include not identifying the reward recipient by name in the report sent to Congress in

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accordance with 2 FAM 954.

- b. Informants and their immediate family may be eligible for participation in the Attorney General's Witness Security Program authorized under 18 U.S.C. 3521 et seq. U.S. Government officials shall not make a promise or inducement of participation in this program without the express approval of the Department of Justice.

2 FAM 953.7 Action Memorandum

(CT:GEN-363; 07-27-2009)

- a. If the Narcotics Reward Program Committee decides to recommend a reward payment, INL will present the Committee's recommendation in an action memorandum to the Secretary of State, or to the Under Secretary for Management with the concurrence of the Under Secretary for Political Affairs (for rewards of less than \$100,000), recommending that a reward be certified for payment. The action memo shall include:
 - (1) If the matter is one over which there is Federal criminal jurisdiction, a recommendation that she or he sign a letter requesting the Attorney General's concurrence;
 - (2) A recommendation that she or he certify payment upon receiving the Attorney General's concurrence, if necessary; and
 - (3) If appropriate, a recommendation that the Secretary determine that the identity of the reward recipient and/or members of the recipient's family must be protected.
- b. The action memorandum will ordinarily include:
 - (1) A summary of the case or incident;
 - (2) A description of the applications of the criteria stated in 2 FAM 953.5 to the reward payment proposal;
 - (3) Other considerations that would affect the amount of the reward and/or the method of payment;
 - (4) A recommendation as to the amount of the reward;
 - (5) A recommendation as to any necessary measures to protect the identity of the reward recipient and/or members of the recipient's family;
 - (6) As appropriate, the dissenting opinion(s) of any rewards committee representatives involved in the decision to recommend payment of a reward; and
 - (7) If appropriate, a letter to the Attorney General or her or his designate, requesting her or his concurrence for signature.

2 FAM 953.8 Reward Payment

(CT:GEN-411; 07-11-2013)

- a. Section 36(e)(2) of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2708(e)(2)), requires that the Secretary personally approve rewards of more than \$100,000. By Delegation of Authority No. 180, dated August 8, 1989, the Secretary has delegated to the Under Secretary for Management the functions vested in the Secretary by Section 36 of the Act with respect to the payment of rewards of less than \$100,000, subject to the concurrence of the Under Secretary for Political Affairs as to each proposed payment. Pursuant to Section 36(e)(3) of the Act, the Secretary must certify for payment any reward under this authority. Pursuant to Delegation of Authority No. 180, the Under Secretary for Management, subject to the concurrence of the Under Secretary for Political Affairs as to each payment, may certify for payment rewards of less than \$100,000.
- b. Provided the Secretary or the Under Secretary for Management has decided that a reward shall be paid and has received concurrence from the Attorney General, if it is a matter over which there is Federal criminal jurisdiction, INL will notify *CGFS*, provide relevant documents, and request that appropriate arrangements for payment be initiated.
- c. Generally, *CGFS* will transfer funds to the DEA, FBI, DHS/ICE, or the appropriate law enforcement agency handling the informant.

2 FAM 954 REPORTS TO CONGRESS

2 FAM 954.1 Reports on the Payment of Rewards

(TL:GEN-306; 06-24-2003)

Pursuant to Section 36(g)(1) of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2708(g)(1)), within 30 days after payment of any reward, the Secretary shall submit a report to the House Committee on International Relations and the Senate Committee on Foreign Relations with respect to that reward. INL shall prepare the report, which may be submitted in classified form, if necessary, and which shall:

- (1) Specify the amount of the reward paid;
- (2) Identify to whom the reward was paid (when necessary to protect the recipient, an identification number may be used instead of a name);
- (3) State the acts with respect to which the reward was paid; and
- (4) Discuss the significance of the information for which the reward was paid in dealing with the respective acts.

2 FAM 954.2 Annual Reports

(TL:GEN-306; 06-24-2003)

Pursuant to Section 36(g)(2) of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2708(g)(2)), not later than 60 days after the end of each fiscal year, the Secretary shall submit a report to the House Committee on International Relations and the Senate Committee on Foreign Relations with respect to the operation of the Narcotics Rewards Program. The report shall provide information on the total amounts expended during the fiscal year to carry out the rewards program, including amounts expended to publicize the availability of rewards.

2 FAM 955 THROUGH 959 UNASSIGNED